

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

PLANNED PARENTHOOD SOUTH)	Civil Action No: 3:18-cv-2078-MGL
ATLANTIC and JULIE EDWARDS, on)	
Her behalf and on behalf of others similarly)	
Situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
JOSHUA BAKER, in his official capacity)	
As Director, South Carolina Department of)	
Health and Human Services,)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS

Defendant, by and through his undersigned counsel, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), moves for dismissal of Complaint in the above captioned matter filed by Plaintiffs Planned Parenthood South Atlantic and Julie Edwards', on her behalf and behalf of others similarly situated, on the following grounds:

1. Pursuant to FRCP Rule 12(b)(1) for lack of subject matter jurisdiction as
 - a. Plaintiff Edwards does not possess standing as required by Article III, § 2 of the United States Constitution;
 - b. Plaintiffs have waived any right to pursue any § 1983 claim in a federal forum and have failed to exhaust their administrative remedies; and
2. pursuant to FRCP Rule 12(b)(6) for failure to state a claim upon which relief can be granted as the right-of-action doctrine announced in *Gonzaga University v. Doe*, 536 U.S. 273 (2002), precludes Medicaid providers and patients from suing to

enforce the provider-choice Medicaid plan requirement of 42 U.S.C. § 1396a(a)(23).

As required by Local Rule 7.04, the reasons supporting this Motion are set forth in the attached Memorandum of Law in Support of Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). Defendant has served counsel for Plaintiffs with copies of this Motion and the Memorandum along with its supporting documents.

Respectfully submitted,

JOLLEY LAW GROUP, LLC

s/ Kelly M. Jolley
Kelly M. Jolley (09578)
Email: kmj@jolleylawgroup.com
Ariail B. Kirk (09250)
Email: abk@jolleylawgroup.com
1201 Main St., Suite 1100
Columbia, SC 29201
T: (803) 748-1259
F: (877) 668-1766

Counsel for Defendant

Dated: August 20, 2018